

FINAL BILL REPORT

SB 5125

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Synopsis as Enacted

Brief Description: Defining independent contractor relationships in the context of real estate licensing.

Sponsors: Senators Braun, Conway, Rossi and Wilson.

Senate Committee on Commerce, Labor & Sports
House Committee on Business & Financial Services

Background: Washington law requires that real estate brokers and firms be licensed by the Department of Licensing (DOL). A real estate broker provides real estate brokerage services on behalf of a real estate firm, under the supervision of a managing broker or a designated broker. A managing broker performs the same services but may supervise other brokers. A designated broker is a person who either owns a sole proprietorship real estate firm or who has a controlling interest in a real estate firm and is designated to act on behalf of the firm.

Real estate brokerage services include:

- listing, selling, purchasing, exchanging, optioning, leasing, or renting real estate, as well as negotiating those transactions;
- advertising real estate brokerage services;
- advising or consulting buyers, sellers, landlords, or tenants in connection with real estate transactions;
- issuing broker's price opinions;
- performing property management services; and
- collecting, holding, or disbursing funds in connection with real estate transactions.

A real estate firm is a sole proprietorship or business entity licensed by DOL that conducts real estate brokerage services in Washington State.

Generally, employment standards and benefits only apply if an employer-employee relationship exists rather than an independent contractor relationship. The term "independent contractor" is not defined in statute. Instead, several different multi-part tests are used to determine whether an individual is an independent contractor.

Currently, a real estate broker, managing broker, or designated broker is exempt from state overtime compensation requirements unless the broker provides real estate brokerage

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services under a written contract with a real estate firm that specifies the broker is an employee.

Under state unemployment insurance law, a real estate broker is excluded from the definition of "employment" to the extent that the broker is compensated by commission.

Summary: For the purposes of real state license law, an "independent contractor relationship" is defined as a relationship between a broker, or managing broker, and a real estate firm that satisfies the following criteria:

1. There is no written agreement with the broker or managing broker that they are an employee of the real estate firm.
2. Substantially all of the broker or managing broker's compensation is for services related to the real estate brokerage service provided by the firm.

It is specified that the new definition is not intended to relieve a managing broker or real estate firm of any supervisory duties established in current law.

Votes on Final Passage:

Senate	48	1
House	96	0

Effective: July 23, 2017